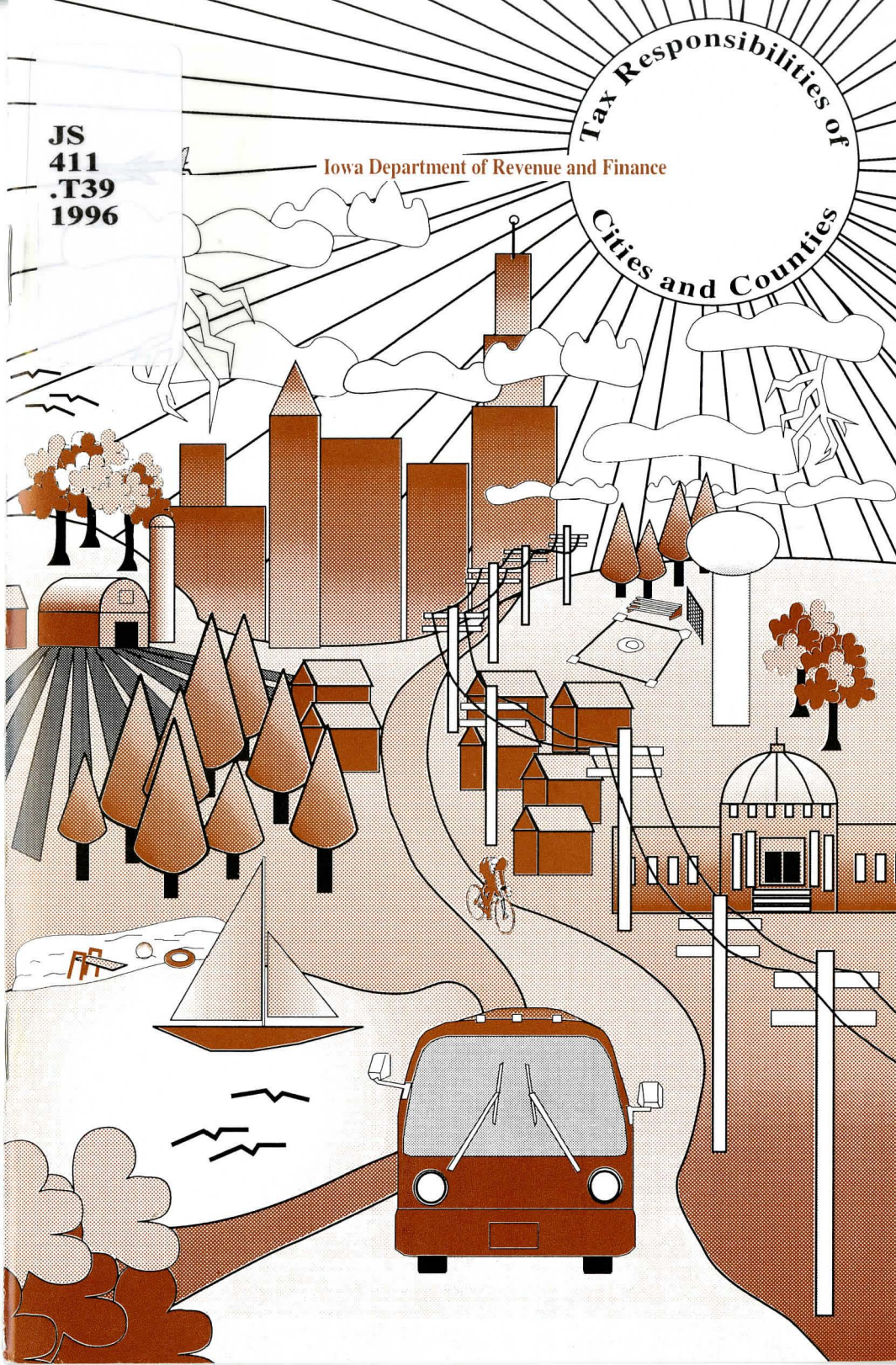


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Iowa Department of Revenue and Finance

Tax Responsibilities of
Cities and Counties



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SALES TO CITIES AND COUNTIES

In general...

Sales of goods, wares, merchandise or services to county or municipally-owned governments are exempt from Iowa sales tax.

Sales to municipally-owned public utilities that sell gas, electricity, heat, or pay television to the general public are subject to Iowa sales tax. This includes the sale, furnishing, or service of sewage services and solid waste collection and disposal.

Sales to water utility and communications departments are exempt from tax.

Sales to a municipally-owned solid waste facility that sell its processed waste to another municipally-owned solid waste facility for fuel are exempt.

Sales to city or county relief agencies are subject to tax. The relief agency may request a refund from the Department.

Sales to a Code chapter 174 county or district fair or agricultural society of items or services which are used for public purposes are exempt from sales or use tax.

When sales are exempt, payment must be made with an official county or city voucher, check or credit card or must be charged directly to the county or city. Sales made to city or county employees and paid in any other manner are subject to the sales tax.

Vehicles

Sales to cities and counties of vehicles subject to registration are exempt from tax. Cities and counties should not pay the motor vehicle use tax to the county treasurer upon registration.

The exemption does not apply to city or county municipal utilities engaged in selling gas, electricity or heat to the general public.

Repair work

Certain repair work related to the furnishing of gas, electricity, water, heat, pay television and other communication services is taxable when sold to cities or counties. Call our forms order line and order the brochure "Taxable Services" for more information.

Utilities sold for resale

If the utility or communication service is sold to the city or county for resale, the city or county must complete a resale exemption certificate and give it to the supplier.

[If the city or county resells a utility or communication service to a customer who will again resell it or use it for processing, the city or county must obtain a resale exemption certificate from that customer.]

Examples of sales for resale or processing:

1. Municipally-owned electric utility ABC purchases additional electricity from XYZ, a neighboring utility, to meet its summer demand peak. ABC will purchase the electricity tax free as a purchase for resale since it will resell the electricity to the final consumer. ABC must give XYZ a resale exemption certificate.

2. ABC purchases electricity from XYZ to operate the generators which produce the electricity ABC sells to the public. ABC will purchase the electricity tax free and provide XYZ a resale exemption certificate since the purchase is for processing.

Sales and purchases of motor fuel

See page 12 of this booklet for information on the sales of motor fuel to cities and counties.

SALES **BY** CITIES OR COUNTIES

Taxable transactions

In general....

Cities and counties must collect sales tax on the following:

- selling or furnishing gas, electricity, water, heat, communication or pay television services and sewage and solid waste collection and disposal services billed to nonresidential commercial operations
- charging a fee for participating in any athletic sports
- charging a fee for the privilege of using a facility specifically designed for use by those playing an athletic sport
- charging a fee to enter any tournament or league which involves playing an athletic sport

Sales of utilities and communication services

The gross receipts from the sales, furnishing or service of the following by a county or city are subject to sales tax:

- gas
- electricity,
- water
- heat
- communication services
- municipally-operated pay television services
- sewage services
- solid waste collection and disposal services to nonresidential commercial customers

Solid waste regulations

A "nonresidential commercial operation" is any industrial, commercial, agricultural or mining operation, including hotels and motels. Tax must be collected from both profit-making and nonprofit nonresidential commercial operations, including churches, hospitals, nursing homes, charities and fraternal organizations. Exempt from the garbage and sewage tax are single and multi-family dwellings, apartment complexes and mobile home parks. The standard sales tax exemptions also apply, such as sales to governmental entities, educational institutions, etc.

Tax must be charged when a person deposits nonresidential commercial solid waste without compensation for his/her services. Commercial hauling operations are not charged sales tax since they are to collect the tax from their customers.

A customer that has both taxable and nontaxable sewage and solid waste disposal use should be charged sales tax on only the taxable portion of the service. For example, if a customer owns 100 residential apartment units and an office building of 20 suites, only the office building sewage and garbage use is taxable. The city or county should separate the taxable from the nontaxable use by formula; possible formulas would be by weight or by number of square feet of the structures. The Department will approve any formula which realistically reflects the taxable and nontaxable work performed.

Recyclable materials, such as motor oil, paper, glass, metals, and batteries, are exempt from the tax as long as these materials are separated from other mixed municipal solid waste for the purpose of recycling.

Cities and counties that charge customers a landfill fee in addition to the fee charged by the garbage hauler must collect the sales tax on the fee charged to nonresidential commercial operations.

Any business that contracts with a city or county to provide solid waste collection and disposal is obligated to collect the tax from nonresidential commercial customers.

Fees for participating in athletic sports

Cities and counties that sponsor athletic events must charge sales tax on fees to participate. Both team and individual entry fees are taxable. This includes but is not limited to baseball, basketball, softball, volleyball, golf, tennis, racquetball, swimming, wrestling and foot racing. This includes league and tournament fees.

Fees for using an athletic facility

Fees charged by a city or county to use an athletic facility for the sport for which it was designed are subject to sales tax. This includes, for example, fees for use of a golf course, ball diamond, tennis court, swimming pool or ice skating rink. The fee is taxable to both individuals and groups. Daily fees and season ticket fees are taxable. Whether or not the use is for a brief or extended period of time is irrelevant; the fee is taxable.

SALES BY CITIES OR COUNTIES

Exempt transactions

Following are the most common nontaxable transactions in which cities and counties are involved. Circumstances other than these may be taxable; contact Taxpayer Services if you have questions about the taxability of any transaction.

Lessons or instruction

Fees paid to cities and counties for lessons or instruction in how to play or to improve in an athletic sport are not subject to the sales tax. This includes, but is not limited to, golf and swimming lesson fees.

Equipment rental

Rental fees paid to cities and counties on equipment used to participate in athletic sports are not taxable. Examples include the rental of a golf cart, recreational boat or moveable duck blind.

Merchandise sales

City or county sales of merchandise such as food or drink to anyone watching or participating in any athletic sport are not taxable. Sales by auction or other means of office equipment and furniture are not taxable.

Note, however, that if a third party sells at a city or county event, those sales are taxable unless otherwise exempt in the Iowa Code. These kinds of sales are not exempt just because they take place at a city or county event.

Facility or park rental

The rental fees charged by cities and counties for the use of facilities and parks are not taxable as long as the area is not a specific athletic facility and not being used for that athletic activity.

Hiking and camping

Fees paid to cities and counties for the use of a campground or hiking trail are not subject to tax.

Repair work

Cities and counties that provide service to the public for repair of city or county property should not charge sales tax on that fee except when the repair is related to the furnishing of utilities and communications.

Sales to the U.S. government or the State of Iowa

Cities and counties that make direct sales of any kind to agencies or instrumentalities of Federal, state, county or municipal government should not collect any tax on those sales.

Sales and purchases of motor fuel

See page 12 of this booklet for information on the purchase and sale of motor fuel by cities and counties.

County fairs

Sales made by county fairs that are truly operated by the county itself are exempt from sales tax.

Exempt sales include, but are not limited to:

- admissions to the fair
- admissions to grandstand shows
- parking fees
- concessions
- any other sales of tangible personal property or taxable services by the organization conducting the fair

As of 7-1-96, sales of the above are not subject to tax.

Sales to Indians

Sales of gas, electricity, water, heat or communication service to Indians are exempt if delivery occurs on the reservation.

Sales to tribes are exempt regardless if delivery occurs on or off the reservation.

Third-party sales

A city or county that operates a facility which sells through a third party is not required to collect sales tax since it is the third party and not the city or county who is making the sale or rendering, furnishing, or performing a taxable service. In order to determine whether the activity is taxable to the city or county or to the third party, the facts of each situation and the terms of existing contracts must be evaluated. Cities and counties are urged to contact the Iowa Department of Revenue and Finance if third-party sales relationships exist.

REPORTING TAX

Tax liability

The city or county can be held responsible for uncollected tax. The city or county may, in turn, file suit against the purchaser to recover sales tax it failed to collect; the unpaid tax is considered a legal debt by law.

Sales tax permits

Sales tax permits must be obtained for each location at which taxable activities occur. In smaller cities and counties where all the accounting functions are centralized, the Department allows the city or county to operate under a single tax permit.

Receiving return forms

As a courtesy and to increase the efficiency of tax return processing, the Department sends tax return forms to permit holders for completion. Permit holders should know, however, that if they do not receive a return form, they are still required to file and remit the tax due in a timely manner. Contact Taxpayer Services whenever a tax return form is needed.

Keeping records

Cities and counties should retain appropriate sales tax records for five years.

Statute of limitations

The statute of limitations for audits and refunds is five years.

Use tax

The use tax differs from the sales tax in that the use tax is assessed on the "right of use, ownership or control" instead of on the sales transaction. The use tax is usually imposed when property purchased out of state for use in Iowa is brought into Iowa.

The exemptions that apply to the sales tax also apply to the use tax. Note: The casual sale exemption does not apply to vehicles subject to registration. If a city or county sells a vehicle to a

nonexempt buyer, that buyer will be responsible for the payment of the motor vehicle use tax when the vehicle is registered at the county treasurer's office.

There is no local option use tax to complement the local option sales tax.

For more information on sales and use taxes, call our forms order line and request the booklet "Iowa Sales and Use Tax" and the brochure "Sales Tax on Services."

"Line loss"

Electricity loss through "line loss" is not subject to tax.

REFUNDS

Construction contracts

Contractors, subcontractors and builders who enter into written construction contracts with cities or counties are required to pay sales tax on building materials, supplies and equipment to their suppliers or to pay the corresponding use tax.

The contractor is required to provide the city or county with a statement before final settlement of the contract. The statement must show the amount of sales or goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of the contract, and the amount of sales and use taxes paid on the items. The Department provides form 35-002 for this purpose.

The city or county has six months after final settlement to file a claim for refund on form 35-003 for sales and use taxes paid by the contractor.

Others

If sales/use tax, penalty or interest has been paid in error, it will be credited against any tax due or will be refunded to the person who made the incorrect payment.

The claim for a refund must be filed within five years after the tax payment became due or one year after the payment was made, whichever time is the later. Sales and use taxes collected in error and paid to the Department generally cannot be refunded to a city or county unless the city or county is acting as an agent for the consumer in obtaining the refund. Sales and use taxes must be refunded to the person who actually paid the tax in error. The claim must be filed on form IA843 (form 22-009).

(The five-year statute of limitations regarding refunds should not be confused with the six-month statute of limitations relating to construction contracts.)

A claim for refund must state in detail the reasons and facts on which the claim for refund is based; supporting documents, if necessary, should be included. If the claim for refund is denied and the city or county wishes to protest the denial, a protest must be filed no later than 60 days following the date of denial.

MOTOR FUEL TAX

New law effective 1/1/96

On January 1, 1996, a new law went into effect which triggered substantial changes in the way Iowa motor-fuel taxes are administered.

The new law taxes all fuel – except LPG and CNG – when it leaves the pipeline distribution system (terminal). Suppliers collect the fuel tax from their customers when the fuel is sold “over the rack” at the terminal. Suppliers then remit the tax to the Iowa Department of Revenue and Finance.

Only fuel purchased for direct export outside of Iowa and the purchase of *dyed* diesel fuel can be made tax free. Fuel tax exemption certificates no longer exist, except for LPG and CNG.

Cities and counties are allowed to purchase dyed diesel fuel for use in their on-road and off-road vehicles. Dyed diesel is sold tax free.

Except for dyed diesel, cities and counties must pay the Iowa fuel tax on their purchases of fuel. The exemption for bulk purchases that existed prior to 1-1-96 no longer applies. The city or county may then apply for a refund of the tax.

To obtain a refund, the city or county must apply for a refund permit number with the department. Any refund permits that were held prior to 1-1-96 were automatically canceled on 12-31-95. Therefore, an application for a new refund permit must be filed.

A governmental agency is allowed to designate another governmental agency as an agent for filing and receiving a refund.

Claims for refund may be filed any time after a \$60 minimum refund amount has been accumulated. Once the \$60 minimum has been met, the claim for refund must be filed within one year. Claims will not be filed on paper; they will be processed through a special telephone system developed for this purpose. Cities and counties who apply for a new permit will receive detailed information on this telephone system when their new permit number is issued.

Only cities and counties and their political subdivisions may obtain refunds of fuel tax. An entity is a political subdivision if the entity has

- a specific geographic area and
- public officials elected at public elections and
- a general public purpose or benefit and
- been granted the above by the State of Iowa

If an entity does not meet all of the above criteria, it does not qualify for a refund permit number. Many nonqualifying entities, referred to as "instrumentalities," receive funds from cities and counties. However, because they do not qualify as political subdivisions, they cannot file for refunds unless the fuel is used for nonhighway purposes. Highway use of fuel is taxable to instrumentalities of cities and counties.

For example, a private school or a nonprofit group may receive partial funding from a city or county. However, if that school or group does not meet the above criteria, it cannot apply for fuel tax refunds because it is not a political subdivision of the city or county.

Regional transit systems

As of 1-1-96, regional transit systems may no longer make tax-free purchases of fuel.

A regional transit system is defined a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department.

Privately-chartered bus services and uses other than providing services that are open and public on a shared-ride basis are not considered to be regional transit systems.

Urban transit systems

As of 1-1-96, urban transit systems may no longer purchase fuel tax free.

An urban transit system is one whereby buses are (1) operated primarily on the streets of cities (2) for the transportation of passengers (3) without discrimination (4) up to the capacity of each motor bus.

Contract carriers that have contracts with approved public or non-public schools for the transportation of students must also obtain a refund permit.

Keeping motor fuel records

All motor fuel tax records must be kept for three years for tax-verifying purposes.

Note, however, that according to the city and county governments sections of the Iowa Code, records must be kept for a minimum of five years.

LOCAL OPTION SALES TAX

A county may impose by ordinance of the board of supervisors a local option sales tax at a rate not to exceed 1 percent.

A local option sales tax is imposed only after an election at which a majority of those voting favors imposing the tax. The tax remains in effect until it is repealed.

The Department of Revenue and Finance must be informed 40 days prior to imposing, revising or repealing the tax.

The tax can be imposed only on January 1, April 1, July 1 or October 1.

This tax is imposed on the same goods and services as the Iowa state sales tax, with several exceptions. The following sales are not subject to the local option sales tax:

- Iowa lottery tickets
- motor fuel and special fuel
- rental of rooms, apartments, or other sleeping accommodations if already subject to the local option hotel/motel tax
- natural gas and electricity if already subject to a franchise or user fee
- equipment sold by the Iowa Department of Transportation

For more information on the local option sales tax, call our forms order line and order the handout "Local Option Sales Tax Questions and Answers."

Questions and problems regarding the election ballot should be addressed to the Iowa Secretary of State at (515) 281-5823.

LOCAL OPTION HOTEL/MOTEL TAX

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax at a rate not to exceed 7 percent.

A city or county may impose the tax only after an election at which a majority of those voting favors the tax.

The Department of Revenue and Finance must be informed 45 days prior to imposing, revising or repealing the tax.

The tax can be imposed only on January 1, April 1, July 1 or October 1.

The hotel/motel tax is imposed on the gross receipts of the renting of any and all sleeping rooms, apartments or sleeping quarters. These include hotels, motels, inns, public lodging houses, rooming houses, and tourist courts.

The hotel/motel tax does not apply in the following situations:

- rental is for more than 31 consecutive days
- rental of sleeping rooms in dormitories and in memorial unions at all universities and colleges
- contracts made directly with the Federal government
- rental to a guest of a religious institution; the room is on real property exempt from tax; the reason is to provide a place for religious retreat or function

Questions and problems regarding the election ballot should be addressed to the Iowa Secretary of State at (515) 281-5823.

FOR MORE INFORMATION...

Taxpayer Services
Iowa Department of Revenue and Finance
PO Box 10457
Des Moines, Iowa 50306-0457

515/281-3114 (out of state, Des Moines)

OR

1-800-367-3388 (Iowa, Omaha and Rock Island/Moline)

To receive forms and publications by mail:

515/281-7239 or
800-532-1531 (Iowa only)

To receive forms and publications by fax:

515/281-4139 or
800-572-3943 (Iowa, Omaha, and Rock Island/Moline only)

To access ERIN (computer bulletin board):

515/281-3248 or 1-800-972-2028 (Iowa only)

To access TDD for hearing impaired:

515/242-5942

To listen to pre-recorded tax messages:

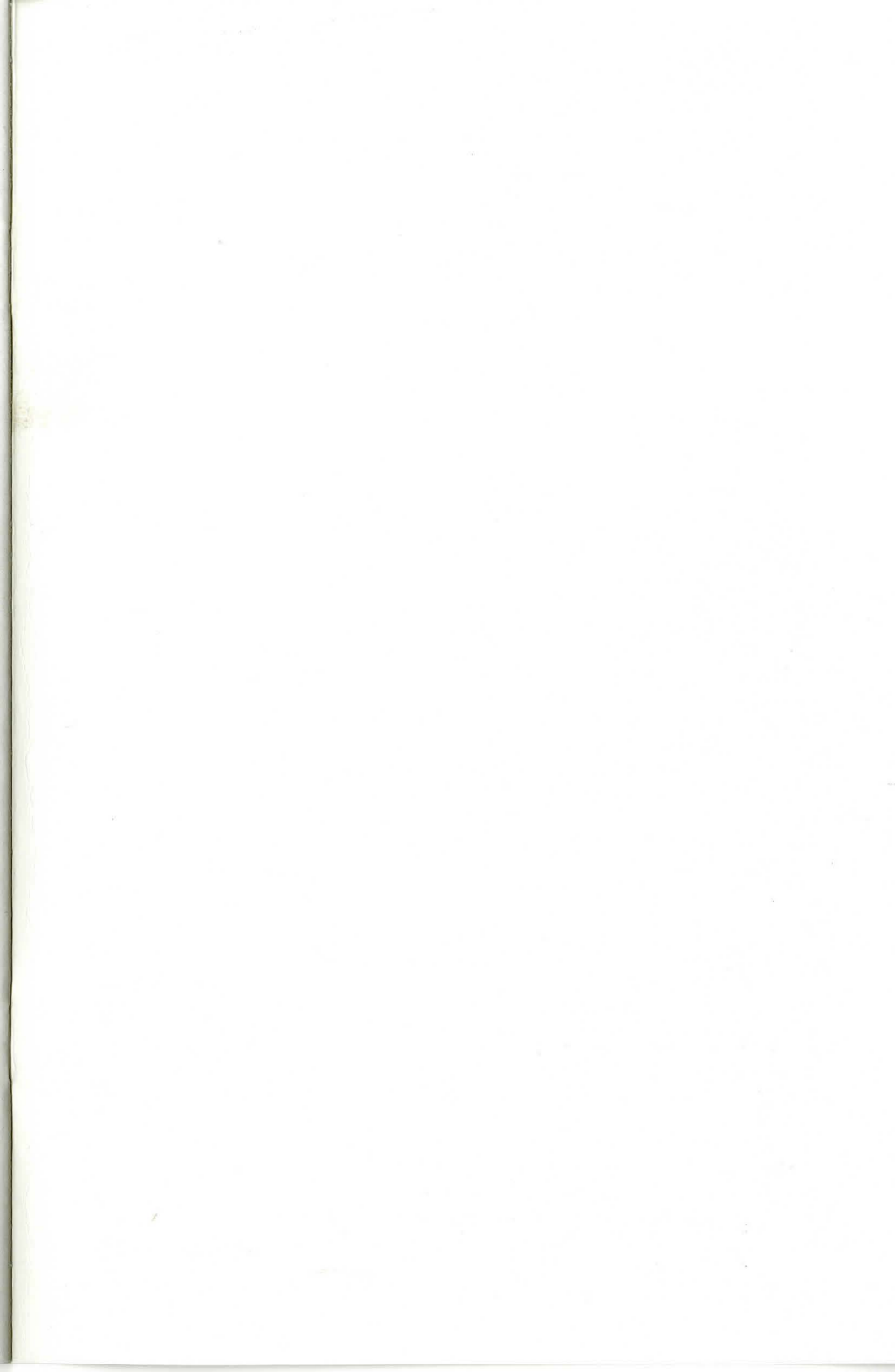
515/281-4170 or
800-351-4658

To check on the status of your Iowa income tax refund:

515/281-4966 or
800-572-3944 (Iowa, Omaha, and Rock Island/Moline only)

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